

LOCAL RULES

of the

UNITED STATES BANKRUPTCY COURT

for the

NORTHERN DISTRICT OF INDIANA

Effective Date: January 1, 1994
Amended: September 1, 2000
Amended: June 4, 2001

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B-1001-1
Title and Scope of Rules

(a) These rules shall be known as the Local Rules of the United States Bankruptcy Court for the Northern District of Indiana. They may be cited as “N.D. Ind. L.B.R. B-____.”

(b) These rules become effective on January 1, 1994.

(c) These rules shall govern all cases and proceedings referred to bankruptcy judges pursuant to N.D. Ind. L.R. 200.1.

(d) These rules supersede all previous rules and general orders governing practice or procedure promulgated by this court. They shall apply to all proceedings initiated in this court after they take effect and to all cases and proceedings pending at the time they take effect.

(e) In a particular case, the court, upon its own motion or upon the motion of any party in interest, may suspend or modify any of these rules if the interests of justice so require.

B-1002-1
Minimum Filing Requirements to Commence a Case

(a) The minimum filing requirements necessary to initiate a voluntary case under title 11 of the United States Code are set forth in the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Official Forms. At the time of the adoption of these rules they require:

(1) The petition and, if the debtor has issued publicly-traded securities and is filing for relief under chapter 11, exhibit “A” to the voluntary petition (11 U.S.C. § 301, Fed. R. Bankr. P. 1002 and Official Form 1);

(2) The appropriate filing fee or, in an individual case, an application to pay the filing fee in installments (Fed. R. Bankr. P. 1006);

(3) Any miscellaneous fee applicable to the case (28 U.S.C. § 1930(b) and Bankruptcy Court Fee Schedule);

(4) A list of all creditors or a schedule of liabilities or a motion, together with a notice of the motion, directed to the United States trustee, for an extension of time to file the required list (Fed. R. Bankr. P. 1007(a)); and

(5) In cases under chapter 9 and chapter 11 a list of the creditors holding the twenty largest unsecured claims. (Fed. R. Bankr. P. 1007(d)).

(b) The clerk may refuse to accept any case for filing which does not comply with the minimum filing requirements established by the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure and the Official Forms in effect at the time the case is presented for filing. If such a case is accepted for filing, it may be stricken by the court, *sua sponte*, without notice.

B-1007-1

Matrix of Creditors

(a) The schedules and any list of creditors required by Rule 1007 of the Federal Rules of Bankruptcy Procedure shall be supplemented by a matrix of creditors and parties in interest, which shall be filed at the same time as the list required by Fed. R. Bankr. P. 1007(a).

(b) The matrix shall be prepared in such a form and manner as may, from time to time, be prescribed by the clerk and shall be verified by the debtor as to its correctness.

(c) It shall be the responsibility of the debtor to ensure that the matrix is complete and accurate. The clerk shall not be required to compare the names and addresses shown on the matrix with those shown on the schedules or other lists.

(d) In the event a petition is filed without a schedule of liabilities, a matrix prepared in accordance with this rule will serve as the list required by Fed. R. Bankr. P. 1007(a).

B-1007-2

Statement Concerning Status of Filing of Tax Returns and Tax Review Proceedings

(a) Except in cases under Chapter 7, within fifteen (15) days of the order for relief, the debtor shall file a statement concerning the status of the filing of tax returns and tax review proceedings. This statement shall disclose the following information:

(1) whether the debtor(s) filed, prior to the commencement of the case, all required federal, state, and local tax returns for every tax period ending on or before the date of the filing of the case and, if not, the taxing authority, the type of tax, and the tax reporting period for each such tax return not filed; and

(2) whether any administrative or judicial proceeding, including audits, with respect to any federal, state or local tax returns filed by the debtor(s) prior to the filing of the case or with respect to any potential tax obligation of the debtor(s) for any tax period ending prior to the filing of the case is pending and, if so, the taxing authority, type of tax, tax reporting period, and the nature of the administrative/judicial proceeding (if judicial, state case name, court of record, and case number).

(b) The statement concerning the status of the filing of tax returns and tax review proceedings shall be filed under the penalty of perjury and served upon the United States trustee, any trustee and upon the agency responsible for the collection of the taxes for any returns reflected as outstanding. If federal tax returns are outstanding, service shall also be made upon the Office of the United States Attorney at the address designated in the list provided by the Office of the United States Attorney pursuant to N.D. Ind. L.B.R. B-1007-5(b).

(c) The statement required by this rule shall be filed on Local Bankruptcy Form 1 (LBF- 1) or another form which substantially conforms thereto.

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
_____ DIVISION

IN THE MATTER OF:

Debtor(s)

)
)
)
)

CASE NO.

Chapter

**STATEMENT CONCERNING STATUS OF FILING OF TAX RETURNS
AND TAX REVIEW PROCEEDINGS**

The undersigned debtor(s) in the above-designated case, do hereby state (check, and complete as applicable, box 1, box 2 or box 3, **and** box 4 or box 5):

Status of Filing of Tax Returns

☐

1. That each debtor had filed, prior to the commencement of this case, all federal, state and local tax returns for every tax period ending on or before the date of the filing of the above designated case.

OR

☐

2. That the following required federal, state, or local tax returns, for a tax period ending on or before the filing of the above-designated case, have not been filed by the debtor(s) prior to the filing of the above designated case:

| Taxing Authority (e.g., IRS; State of Indiana; County; Municipality; other [designate]) | Type of Tax | Tax Reporting Period |
|--|-------------|----------------------|
| | | |

OR

☐

3. No return required to be filed for the following year(s): _____
because _____

And

Status of Tax Review Proceedings

☐

4. The debtor(s) is/are unaware of any administrative or judicial proceedings, including audits, with respect to any federal, state, or local tax returns filed by the debtor(s) prior to the filing of the above-designated case, or with respect to any potential tax obligations of the debtor(s) for any tax period ending prior to the filing of the above designated case.

OR

☐

5. The following tax returns filed by the debtor(s) prior to the filing of the above-designated case, or the following potential tax obligations of the debtor(s) for a tax period ending prior to the filing of the above-designated case, are known by the debtor(s) to be the subject of administrative or judicial proceedings, including audits:

| Taxing Authority | Type of Tax | Tax Reporting Period | Nature of Administrative/Judicial Proceeding (If judicial proceeding, state case name and number and court of record.) |
|------------------|-------------|----------------------|--|
| | | | |

**UNSWORN DECLARATION UNDER PENALTY
OF PERJURY FOR INDIVIDUAL**

(To be signed by both spouses when joint petition is filed.)

I, _____, (if joint petition is filed) and,
_____ declare under penalty of perjury that the foregoing
is true and correct to the best of my knowledge, information, and belief.

Executed on: _____

Signature:

**UNSWORN DECLARATION UNDER PENALTY OF PERJURY
ON BEHALF OF CORPORATION OR PARTNERSHIP**

I, _____, (the president, other officer, or an authorized agent of the corporation) (a member or an authorized agent of the partnership) named as debtor in this case, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed on: _____

Signature: _____

(Note: If explanation or additional information is deemed necessary, attach on separate page. Any attachment is also subject to the foregoing Unsworn Declaration.)

CERTIFICATE OF SERVICE

This is to certify under penalty of perjury that on the _____ day of _____, 19____, I deposited in the United States Mail at _____, a copy of the foregoing Certificate of Status of Filing of Tax Returns and Tax Review Proceedings properly addressed to:

A. (If box 2 or box 4 applicable to Internal Revenue Service)

☐

Special Procedures Branch
Advisory Section
P.O. Box 44211 - STOP 41B
Indianapolis, IN 46244

and to

Office of the United States Attorney
for the Northern District of Indiana:

☐

1001 Main Street, Suite A
Dyer, Indiana 46311

☐

204 S. Main Street
South Bend, IN 46601

☐

3128 Federal Building
1300 S. Harrison Street
Fort Wayne, IN 46802

B. (If box 2 or box 4 applicable to State of Indiana)

☐

Indiana Department of Revenue
100 N. Senate
Indianapolis, IN 46206

C. (If box 2 or box 4 applicable to county, municipal, or other taxing authority, including a state other than Indiana.)

☐

and to

☐

D. United States trustee
555 One Michiana Square Building
100 East Wayne Street
South Bend, IN 46601

and to

☐

E. Chapter _____ Trustee

B-1007-3
Statement of Insider Compensation

(a) In any case under chapter 11 or 12 in which the debtor is not a natural person, within fifteen (15) days after the order for relief the debtor shall file a “Statement of Insider Compensation.” This statement shall be verified and shall disclose:

- (1) the identity and duties of any insider who received compensation from the debtor or an affiliate of the debtor during the year prior to the order for relief and the amount, terms, and conditions of such compensation;
- (2) whether the amount, terms, or conditions of any insider's compensation have been altered or changed, in any way, during the year prior to the case and, if so, the date and the precise nature of any such alteration or change; and
- (3) the identity of any insider who will be compensated during the case, the duties such insider is expected to be performing and the amount, terms, and conditions of any compensation.

(b) The debtor shall serve a copy of the “Statement of Insider Compensation” upon the United States trustee, any trustee, any committee and/or the entities included on any list required by Fed. R. Bankr. P. 1007(d) and shall file proof thereof.

(c) As to any insider hired or employed by the debtor after the date of the petition, the debtor shall file and serve, in accordance with paragraph (b), a supplemental statement, disclosing the information required by paragraph (a)(3), within fifteen (15) days after such employment.

(d) The debtor shall not compensate any insider until the statements required by this rule have been filed.

(e) The court may, upon its own initiative or the motion of any party in interest, review the reasonableness of the amount, terms, and conditions of any compensation received by any insider during the administration of the estate, following notice and hearing.

(f) As used in this rule, the term “insider” is as defined in § 101 of title 11 of the United States Code.

B-1007-4
Schedule of Income and Expenditures
for Corporations and Partnerships

(a) A corporation or a partnership will not be required to file a schedule of income and expenditures unless ordered to do so.

(b) Upon the request of a trustee or the United States trustee and without notice or hearing, a corporation or a partnership will be ordered to file a schedule of income and expenditures within fifteen (15) days.

B-1007-5
Scheduling Federal and State Governmental Units

(a) If any federal or state governmental unit, department, agency or instrumentality is a creditor of the debtor or otherwise a party in interest, the schedules, statements, matrix/lists of creditors, or other document required to be filed with the court in which such indebtedness or interest is required to be disclosed shall identify the department, agency or instrumentality of the federal or state governmental unit through which the debtor became indebted, or which otherwise has an interest in the case.

(b) The address of any federal or state governmental unit, department, agency or instrumentality required to be stated in any schedule, statement of affairs, matrix/list of creditors or other document required to be filed with the court shall be the address for that governmental unit, department, agency or instrumentality as designated in the list maintained pursuant to Rule 5003(e) of the Federal Rules of Bankruptcy Procedure.

B-1009-1
Amendments

(a) An amendment to a voluntary petition, list, schedule or statement shall be made in accordance with Fed. R. Bankr. P. 1009 and shall be accompanied by a separate notice of amendment which shall identify the document amended, the purpose of the amendment, and any entity affected thereby. Each amendment shall be verified and signed as in the original document. No amendments by interlineation shall be permitted. Except by leave of court, the entire document which the amendments affect shall be reproduced, with the amended information highlighted or underlined on all copies. In order to accommodate the possibility of multiple amendments, each amendment shall be numerically identified.

(b) If a schedule of creditors (Schedule D, E, or F) is amended to add a creditor or to change a creditor's name or address, the amendment shall be accompanied by a supplement to the matrix

of creditors. This supplement shall contain the name and address of any creditor that was added to a schedule and the new name and address of any creditor whose name or address was changed on the amended schedule.

(c) Debtor shall serve a copy of the notice of amendment and the amended petition, schedule, list or statement upon the United States trustee, any trustee, any committee and/or the entities included on any list required by Fed. R. Bankr. P. 1007(d), and any entity affected thereby and shall file proof thereof along with the amendment.

B-1073-1

Assignment of Cases

(a) The administrative orders of the court may provide for the assignment of cases and proceedings to the various divisions within this district.

(b) Judges may be assigned to a division of this court, permanently and for trial sessions, as the court may from time to time order.

(c) The judge to whom a case has been assigned has the primary responsibility with respect to all proceedings in this district arising in, under, or related to that case.

(d) All judges have concurrent jurisdiction and may act in any matter in the absence of, or with the consent of, the judge to whom the case or proceeding is assigned.

B-2002-1

Treatment of Returned Notices

(a) Envelopes containing notices of the § 341 meeting will bear the return address of debtor's counsel or the debtor if *pro se*. Debtor or debtor's counsel shall retain all such notices returned by the postal service for no less than one hundred eighty (180) days after the case is closed or dismissed.

(b) As to any notice which is not served by the clerk, the party responsible for serving the notice shall retain all notices returned by the postal service for no less than one-hundred and eighty (180) days after the date the case is closed or dismissed.

(c) Any notice served by the clerk which is returned by the postal service may be destroyed upon the closing of the case.

B-2014-1
Employment of Professionals by Debtor-in-Possession

(a) All applications for employment of professionals by a debtor-in-possession, together with the accompanying affidavits and disclosures, including the disclosure of compensation required by Fed. R. Bankr. P. 2016, shall be served upon the United States trustee, any committee and/or the entities included on any list required by Fed. R. Bankr. P. 1007(d), and all secured creditors.

(b) In addition to the other disclosures and affidavits required by the Bankruptcy Code and applicable Federal Rules of Bankruptcy Procedure, where the debtor-in-possession is not a natural person, the affidavit of the proposed professional shall specifically state:

(1) whether or not the debtor has any affiliates, as defined by 11 U.S.C. § 101(2), and, if so, (a) whether the professional or a member of the professional's firm or business represented or was employed by any such affiliate during the twelve months prior to the petition, and (b) any position, other than legal counsel, the professional or a member of the professional's firm or business holds or held in any such affiliate during the two years prior to the petition;

(2) if the professional or a member of the professional's firm or business has represented or been employed by any affiliate of the debtor during the twelve months prior to the petition, the circumstances of such representation or employment, all payments received on account of such representation or employment during the twelve months prior to the petition, and any amount owed on account of such representation or employment on the date of the petition;

(3) whether or not the professional or a member of the professional's firm or business represented or was employed by the debtor during the twelve months prior to the petition and, if so, the circumstances of such representation or employment, all payments received on account of such representation or employment during the twelve months prior to the petition, and any amount owed on account of such representation or employment on the date of the petition;

(4) any position, other than legal counsel, the professional or a member of the professional's firm or business holds or held in the debtor during the two years prior to the petition;

(5) whether or not the professional or a member of the professional's firm or business represented or was employed by an officer, director, shareholder, partner or limited partner of the debtor, or any entity that has guaranteed an obligation of the debtor or is liable on any obligation of the debtor or pledged property to secure an obligation of the debtor and, if so, the circumstances of such representation or employment; and

(6) whether or not the professional or a member of the professional's firm or business has represented any scheduled creditor within the year prior to the date of the petition and, if so, the circumstances of such representation or employment.

(c) Unless objections to the application are filed seven (7) days prior to the date first set for the § 341 meeting or within twenty-one (21) days following service of the application, whichever is later, the court may approve the application without further notice or hearing. Unless the court orders otherwise for good cause shown, the failure to file an objection to the application within the time required will be deemed a waiver of any objection to the professional's employment by the debtor-in-possession and to the allowance or payment of fees on account of such employment based upon the disclosures made pursuant to paragraph (b).

(d) In the event the court approves the application, unless otherwise requested following notice to all creditors, the approval will relate back to the date the application was filed.

B-2015-1 Report of Operations

(a) Every trustee or debtor who operates a business under any chapter of the Bankruptcy Code shall file a *monthly* statement of the cash receipts and disbursements no later than fifteen (15) days after the end of the calendar month. This report shall include:

- (1) a summary of all income and expenses for the reporting period;
- (2) a statement of the use of, reductions and additions to raw materials and inventory, crops, livestock or other items held or produced for sale;
- (3) a statement of the collection of and addition to accounts receivable;
- (4) a reconciliation of all income and expenses while operating under Title 11;
- (5) an itemized statement of all unpaid post-petition obligations;
- (6) a statement of insurance coverage;
- (7) proof or certification of payment of all post-petition taxes due, including taxes withheld or collected from others; and
- (8) copies of all state and federal tax returns filed during the reporting period, including verification of tax deposits.

The report may be in any appropriate form or format containing the minimum information required.

(b) The report shall be served upon the United States trustee, any trustee and counsel for the trustee, any committee and the attorney for such committee, and the entities specified in § 704(8) of the Bankruptcy Code.

(c) The failure to comply with the reporting requirements of paragraph (a) may constitute cause for conversion, dismissal, or the appointment (or removal) of a trustee.

(d) The court may require a debtor who operates a business under any chapter of the Bankruptcy Code to cause to be prepared an annual financial report of the books of the debtor. At a minimum, such annual report shall include a balance sheet and a profit-and-loss statement. If required, such annual financial report shall be filed within ninety (90) days of the close of the fiscal year. The report year shall correspond to the tax year of the debtor for federal income tax purposes. A copy of the annual financial report shall be provided to the same parties as the monthly financial reports.

B-2015-2 Post-Petition Taxes and Tax Returns

(a) Every trustee or debtor who operates a business under any chapter of the United States Code shall:

- (1) file all federal, state and local tax returns and shall pay all federal, state and local taxes on account of the operations of the estate as and when due; and
- (2) segregate and pay as and when due any and all taxes withheld from employees or collected from others under any federal, state or local law.

(b) Whenever applicable law requires a trustee, debtor or debtor-in-possession to make a tax return, such returns shall be prepared and filed in accordance with applicable law, including the Bankruptcy Tax Act of 1980, as amended. Returns for federal taxes shall be filed with the Internal Revenue Service, and mailed to: District Director, Internal Revenue Service, Special Procedures Branch, Advisory Section, P.O. Box 44211 - Stop 41B, Indianapolis, IN 46244. Returns for state taxes shall be filed with the appropriate state office.

B-2090-1 Student Practice Rule

(a) **Purpose.** Effective legal service for each person in the Northern District of Indiana, regardless of that person's ability to pay, is important to the directly affected person, to our court

system, and to our whole citizenry. Law students, under supervision by a member of the bar of the District Court for the Northern District of Indiana, may staff legal aid clinics organized under city or county bar associations or accredited law schools, or which are funded pursuant to the Legal Service Corporation Act. Law students and graduates may participate in legal training programs organized in the offices of United States Attorneys.

(b) **Procedure.** A member of the legal aid clinic, in representation of clients of such clinic, shall be authorized to advise such persons and to negotiate and appear on their behalf. These activities shall be conducted under the supervision of a member of the bar of the District Court for the Northern District of Indiana. Supervision by a member of this bar shall include the duty to examine and sign all pleadings filed on behalf of a client. Supervision shall not require that any such member of the bar be present in the room while a student or law graduate is advising a client or negotiating on his or her behalf nor that the supervisor be present in the courtroom during a student's or graduate's appearance. In no case shall any such student or graduate appear without first having received the approval of the judge of that court for the student's appearance. Where such permission has been granted, the judge of any court may suspend the trial proceedings at any stage where the judge in his or her sole discretion determines that such student's or graduate's representation is professionally inadequate and substantial justice so requires. Law students or graduates serving in a United States Attorney's program may be authorized to perform comparable functions and duties as assigned by the United States Attorney subject to all the conditions and restrictions in this rule and the further restriction that they may not be appointed as Assistant United States Attorneys.

(c) **Eligible Students.** Any student in an accredited law school who has received a passing grade in law school courses and has completed the freshman year shall be eligible to participate in a legal aid clinic if (1) the student meets the academic and moral standards established by the dean of that school, and (2) the school certifies to the court that the student has met the eligibility requirements of this rule.

B-3007-1

Objections to Claims; Default

(a) An objection to a proof of claim shall be limited to the claim or claims filed by a single creditor, unless the objection is directed to a claim which has been filed jointly by more than one creditor.

(b) An objection to a proof of claim shall identify the creditor by name and the claim number as assigned by the court and shall state with specificity the basis for disallowance or allowance in an amount or with a priority other than that claimed. The objection shall be served upon the claimant or claimant's attorney if an appearance has been filed, any entity that filed the claim on the claimant's behalf, the United States trustee or any trustee, debtor and debtor's counsel, any committee and/or the entities included on any list required by Fed.R.Bankr.P. Rule 1007(d). If the objection is to a claim of the United States of America, or any agency, instrumentality, or department thereof, the

objection shall also be served on the appropriate office of the United States Attorney and the agency, instrumentality, or department as designated in the list filed with the clerk pursuant to N.D. Ind. L.B.R. B-1007-5.

(c) Local Bankruptcy Form 2 (LBF-2) shall be used to give the claimant notice of the claim objection and the opportunity to respond thereto, instead of Official Bankruptcy Form 20(B).

(d) The objector shall be responsible for completing LBF-2 and serving it, along with the claim objection, upon the claimant, claimant's attorney if an appearance has been filed, and any entity that filed the claim on the claimant's behalf, and making due proof thereof.

(e) Unless a response to the objection is filed within thirty (30) days following service of the notice of objection, the court may disallow or modify the claim in accordance with the objection, without further hearing.

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF INDIANA
_____ DIVISION**

IN THE MATTER OF:

[*name of Debtor*]

DEBTOR(S)

)
)
)
)
)

CASE NO. [*case #*]

NOTICE OF OBJECTION TO CLAIM

To: [*name of creditor*]

[*Name of party objecting to claim*] has filed an objection to your claim in this bankruptcy case. A copy of the objection accompanies this notice.

As a result of the objection, your claim may be reduced, modified or eliminated. You should read these papers carefully and discuss them with your attorney.

If you do not want the court to eliminate or change your claim, then **within thirty days (30)** of the date of this notice you or your attorney must:

1. File with the court a written response to the objection, explaining your position, at:

[*address of clerk's office for the division in which the case is pending*]

If you mail your response to the court, you must mail it early enough so that it will be **received** within the time required.

2. You must also mail a copy of your response to:

[*name and address of objector's attorney or the objector, if pro se*]

[*name and address of the case trustee and the trustee's attorney, if any*]

[*in cases under Chapter 11, 12, or 13, name and address of debtor's attorney or the debtor, if pro se*]

If you or your attorney do not take these steps, the court may decide that you do not oppose the objection to your claim.

Date: [*date notice is mailed*]

[*signature*]

Name:

Address:

Telephone:

B-3011-1
Payment of Unclaimed Funds

(a) A motion or other request for the payment of unclaimed funds, which have been deposited with the court pursuant to 11 U.S.C. § 347(a), Fed. R. Bankr. P. 3010 or Fed. R. Bankr. P. 3011, must be made through an attorney who is a member of the bar of this court, unless the entity entitled to receive payment is a natural person making the request on its own behalf and not as an agent or other representative of the claimant.

(b) The motion shall be accompanied by an affidavit, together with any appropriate supporting documentation, executed by the claimant demonstrating the claimant's present entitlement to the funds. If the claimant is the entity for whose benefit the funds were originally deposited, the affidavit shall contain a statement to the effect that the right to payment has not, in any way, been transferred or assigned to any other entity.

(c) If the claimant is not a natural person, the affidavit required by paragraph (b) shall be executed by an officer, director, general partner, or other individual authorized to do so and shall be accompanied by proof that the individual executing the affidavit has been authorized to do so on behalf of the claimant and of the capacity in which the individual acts.

(d) The motion and a notice of the motion shall be served upon the United States Attorney, in the manner required by Fed. R. Bankr. P. 7004, and shall be accompanied by a proof of service showing the address to which service was directed and the manner in which service was made.

(e) In the absence of an objection or other response from the United States Attorney, within thirty (30) days of the date the motion is filed, the court may determine the motion, without further notice or hearing.

(f) The failure to comply with the requirements of this rule may result in the motion being denied.

B-3018-1
Chapter 11 Confirmation: Balloting

(a) Any entity entitled to accept or reject a proposed plan may do so by delivering an appropriate ballot to the proponent or other individual identified by the court on or before the date set by the court. Each ballot shall clearly indicate, either by designation or description, the class in which the entity is voting to accept or reject. An entity entitled to cast a ballot in more than one class shall submit a separate ballot for each class in which it desires to vote to accept or reject a proposed plan.

(b) Unless the court orders otherwise, the proponent of the plan shall prepare, file, and serve a verified report of the results of the balloting no later than ten (10) days before the date set for the hearing on confirmation. The report shall include the designation and description of each class provided for by the plan and whether or not any such class is impaired, the total number and amount of claims voting in each class and the number and amount of claims voting to accept and to reject the plan. The report shall also identify any material change from the disclosure statement's representations concerning the requirements for confirmation established by 11 U.S.C. § 1129(a) and shall indicate whether there are sufficient funds available with which to make the payments due upon the effective date of the plan. All ballots received shall be attached to the ballot report. A similar report on any ballots received after the last date fixed for delivering acceptances or rejections shall be made by the proponent of the plan at the hearing on confirmation and shall be accompanied by such ballots.

(c) The proponent shall serve copies of the first ballot report upon the United States trustee, any trustee, any committee and/or the entities included on any list required by Fed. R. Bankr. P. 1007(d). If the proponent is an entity other than the debtor, a copy shall also be served upon the debtor and debtor's counsel.

B-3020-1

Chapter 11 Confirmation: Hearing

(a) In a case under chapter 11, if all the requirements for confirmation of 11 U.S.C. § 1129(a) are met other than those contained in paragraph (8) (acceptance or deemed acceptance of the plan by all classes), should the proponent intend to seek confirmation over the rejection of any class pursuant to the requirements of 11 U.S.C. § 1129(b), the proponent shall file and serve a request to do so no later than ten (10) days before the date set for the confirmation hearing. The request shall identify the class or classes which have rejected the plan as to which the proponent contends the requirements of 11 U.S.C. § 1129(b) are fulfilled and shall state how those requirements have been fulfilled as to each such class, so that the plan may be confirmed notwithstanding the rejection of such class or classes. The request shall be served upon each entity which cast a ballot in any such rejecting class and upon the entities entitled to receive copies of the ballot report. At the initial confirmation hearing the court may determine that the proposed plan does not discriminate unfairly and is fair and equitable as to a rejecting class, based upon the information contained in the request, without further proof, unless at least one rejecting member of such class appears at the confirmation hearing.

(b) The proponent of the plan may be required to file an application to fix the amount of any confirmation deposit, no less than ten (10) days before the date set for the hearing on confirmation, which shall include the computations which were used in arriving at the amount of any deposit.

B-3022-1
Final Decree in Chapter 11 Cases

(a) Unless the confirmed plan or the order of confirmation otherwise provides, an estate under chapter 11 may be deemed to be fully administered when:

- (1) at least one-hundred and eighty (180) days have passed after the date of the entry of the order of confirmation;
- (2) all adversary proceedings, contested matters and other disputes, including appeals, have been resolved by a final, nonappealable order or dismissed; and
- (3) no paper has been filed in the case for a least sixty (60) days.

(b) The court may, on its own motion and without notice or hearing, enter a final decree and close a case under chapter 11 when the estate is deemed to be fully administered.

(c) Upon the motion of a party in interest, following notice to creditors, the court may enter a final decree and close a case under chapter 11, without a hearing, in the absence of an objection thereto.

B-4002-1
Debtor's Duties

In addition to the other duties imposed upon a debtor by the Bankruptcy Code and Federal Rules of Bankruptcy Procedure, the debtor under any chapter shall:

- (a) cooperate with the United States trustee by furnishing such information as the United States trustee may reasonably require in supervising the administration of the estate; and
- (b) immediately upon the entry of an order for relief, give written notice of the bankruptcy to any court or other tribunal where an action or other proceeding is being maintained against the debtor, whether or not the matter has proceeded to final judgment, and to all the parties involved in any such action or proceeding.

B-4003-1
Manner of Claiming Exemptions

Any property claimed as exempt shall be adequately described and itemized on the schedules required by Fed. R. Bankr. P. 1007. General terms (*i.e.*, “automobile,” “personal property,” “common

stock,” etc.) are not sufficiently descriptive and shall render any such claim ineffective. The section number of the statute under which such exemption is claimed shall be shown.

B-4004-1
Extensions of Time for Filing Discharge Objections
and Dischargeability Complaints

(a) Motions for an extension of the time within which to file complaints objecting to a debtor's discharge, pursuant to 11 U.S.C. § 727, or to determine the dischargeability of debt, pursuant to 11 U.S.C. § 523, shall be combined with notice thereof, be filed prior to the expiration of the bar date to be extended and be served upon the United States trustee, any trustee, debtor and debtor's counsel, any committee and/or the entities included on any list required by Fed. R. Bankr. P. 1007(d).

(b) At a minimum, the motion shall state the cause for the requested extension, the date to which the time is to be extended, and contain a statement that any objections to the motion must be filed within fourteen (14) days of the date the motion was served.

(c) In the absence of an objection to the motion within fourteen (14) days after service the court may grant the motion without further notice or hearing.

(d) In the event the motion is granted, movant shall be responsible for serving a copy of the order upon the creditors and parties in interest affected thereby.

B-4008-1
Discharge and Reaffirmation Hearings

(a) Except as the court may otherwise order, the court will not hold the hearing contemplated by 11 U.S.C. § 524(d) unless:

- (1) a reaffirmation agreement is filed before the granting of the discharge; and
- (2) the debtor is appearing *pro se* or a party to the reaffirmation agreement files a request for a discharge/reaffirmation hearing.

(b) Where a debtor is represented by counsel, the discharge/reaffirmation hearing of 11 U.S.C. § 524(d) will be deemed waived unless a request for such a hearing is filed with the court or the court orders a hearing.

(c) Any request for a discharge/reaffirmation hearing shall be filed separately, at the same time a reaffirmation agreement is filed.

B-4008-2
Rescission of Reaffirmation Agreements

- (a) Court approval of the rescission of a reaffirmation agreement is not required.
- (b) Should a debtor choose to rescind a reaffirmation agreement with any creditor, notice of rescission shall be given to the creditor at the address set forth in the reaffirmation agreement and, if known, to creditor's counsel within the time required and a copy thereof filed with the court.
- (c) The failure to comply with paragraph (b) will not affect the validity of a rescission which otherwise complies with 11 U.S.C. § 524(c)(4).

B-5004-1
Reassignment Upon Recusal

If for any reason it should become necessary for a judge to be disqualified or recused from a case, contested matter or adversary proceeding assigned to that judge, the case, contested matter or adversary proceeding shall be sent to the Chief Bankruptcy Judge of the district for reassignment to any other judge who is not also disqualified. If the Chief Bankruptcy Judge is disqualified or recused from either deciding or reassigning such a case, contested matter or adversary proceeding, the case, contested matter or adversary proceeding shall be sent to the judge who is next senior in service on the bench and who is not also disqualified or recused for reassignment.

B-5005-1
Form and Style of Papers; Number of Copies

- (a) All papers presented for filing shall be flat and unfolded. All filings (except accompanying exhibits) shall be on white paper of good quality, 8½" x 11" in size, printed on one side of the paper only, and shall be plainly typewritten, printed, or prepared by a clearly legible duplication process and double spaced, except for quoted material. The filings shall have no covers or backs and shall be fastened together at the top left corner and at no other place. The title of each filing must be set out on the first page. Each page shall be consecutively numbered and shall be pre-punched with two holes at the top with sufficient top margin allowed so that neither caption nor text is destroyed or obscured.
- (b) Computer generated versions of the official forms shall be prepared so that they read from top to bottom of the page rather than laterally.
- (c) (1) Except as set forth below, an original and three (3) copies of all pleadings, motions, briefs, and other papers presented for filing will be required.

| | |
|---|--------------------------------|
| Proof of claim, including attachments - | original and two (2) copies. |
| Matrix of Creditors - | original and one (1) copy. |
| Petition, Schedules and Statements - | |
| Chapter 7 - | original and four (4) copies. |
| Chapter 9 - | original and seven (7) copies. |
| Chapter 11, railroad - | original and seven (7) copies. |
| Chapter 11, non-railroad - | original and six (6) copies. |
| Chapter 12 - | original and four (4) copies. |
| Chapter 13 - | original and five (5) copies. |

(2) For cases pending in the Hammond Division at Lafayette, in addition to the number of copies set forth above, one (1) additional copy of every paper presented for filing will be required.

B-5005-2 Requirements and Place of Filing

(a) All petitions, schedules, statements, pleadings and other documents required by the bankruptcy court to commence a case should be filed with the clerk for the division of the district where the domicile, residence, or principal assets of the debtor have been located for such a period of time as required by 28 U.S.C. § 1408. All papers tendered for filing after the commencement of a case should be filed with the office of the clerk in the division where the case is pending.

(b) The office of the clerk will not refuse to accept for filing any petition, complaint, motion or other pleading because of venue considerations.

(c) The clerk may refuse any filing not accompanied by the appropriate required filing fee, if any.

(d) In all instances, pleadings, motions and other papers will be marked as filed only upon the actual physical receipt of the documents by the clerk.

(e) If a party wishes to receive, by return mail, a file-stamped copy of any pleading, motion, or other paper which is not presented for filing in person, the party shall provide a self-addressed, stamped envelope of adequate size and postage.

(f) The court, by general order, may authorize filing by facsimile transmission.

B-5071-1
Continuances

(a) A request to continue, reschedule, postpone or cancel any matter scheduled before the court shall be made by motion, demonstrating good cause, or by stipulation of all parties involved. Whether the request or stipulation is granted, and upon what terms and conditions, if any, is in the discretion of the court.

(b) A request to continue, reschedule, postpone or cancel based upon a prior conflict shall specifically describe the conflict and must be filed no later than ten (10) days after the issuance of the notice or order scheduling the matter sought to be continued.

(c) Requests to continue, reschedule, or relocate a § 341 meeting shall be directed to the United States trustee or, if a trustee has been designated, to the trustee. Whether the request is granted is in the discretion of the United States trustee or the trustee.

(d) A motion to postpone an evidentiary hearing on account of the absence of evidence shall be made only upon affidavit, showing the materiality of the evidence expected to be obtained; that due diligence has been used to obtain it; where the evidence may be. If the motion is for an absent witness, the affidavit must show the name and residence of the witness, if known; the probability of procuring the testimony within a reasonable time and that the absence has not been procured by the act or connivance of the party, or by others at the party's request, or with his or her knowledge or consent, the facts that the party believes to be true, and that the party is unable to prove such facts by any other witness whose testimony can be as readily procured. If the adverse party will stipulate to the content of the evidence that would have been elicited at trial from the absent document or witness, the trial shall not be postponed. In the event of such a stipulation, the parties shall have the right to contest the stipulated evidence to the same extent as if the absent document or witness were available at trial.

B-5072-1
Courtroom and Courthouse Decorum

At its March 1979 meeting the Judicial Conference of the United States amended its March 1962 resolution pertaining to courtroom photographs to read as follows:

“RESOLVED, That the Judicial Conference of the United States condemns the taking of photographs in the courtroom or its environs in connection with any judicial proceedings, and the broadcasting of judicial proceedings by radio, television, or other means, and considers such practices to be inconsistent with fair judicial procedure and that they ought not be permitted in any federal court. A judge may, however, permit the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings.”

In the Northern District of Indiana the term “environs” has been generally interpreted to mean all areas upon the same floor of the building on which a courtroom is located.

Consistent with the Resolution of the Judicial Conference of the United States, and this court’s interpretation of the term “environs,” the taking of photographs, sound recording (except by the official court reporters in the performance of their duties), broadcasting by radio, television, or other means, in connection with any judicial proceeding on or from the same floor of the building on which a courtroom is located are prohibited. *Provided*, however, that incidental to investitive, ceremonial or naturalization proceedings, a judge of this court may, in his or her discretion, permit the taking of photographs, broadcasting, televising, or recording.

B-5081-1

Payment by Check, Credit Card and Returned Checks

(a) No personal or business checks or credit cards will be accepted from debtors while the case is pending.

(b) In the event that any check or draft received by the clerk is returned for any reason, including but not limited to insufficient funds, closed account, etc., no further checks or drafts will be accepted from the maker unless the clerk is directed by the judge, after written application of the maker, to do so.

(c) Whenever a check or draft is returned for any reason, the returned check fee specified by the Judicial Conference shall be paid in full, in collected funds, in addition to the amount specified on the returned instrument, before the maker may apply for an order directing the clerk to accept checks or drafts.

B-6004-1

Sales Outside the Ordinary Course of Business

(a) A motion to sell property of the bankruptcy estate outside the ordinary course of business shall be served upon the United States trustee, any committee and/or the entities included on any list required by Fed. R. Bankr. P. 1007(d), and all entities that can be discovered through a reasonably diligent inquiry holding liens upon or having interests in the property to be sold.

(b) Notice of the motion must be given to all creditors and parties in interest, unless the court orders otherwise, in addition to service of the motion itself as required by paragraph (a).

(c) In the event the motion is granted, within seven (7) days following the sale the trustee or debtor-in-possession shall file or cause to be filed the report of sale required by Fed. R. Bankr. P.

6004(f)(1). The report of sale shall be served upon the parties identified in paragraph (a) and any objectors.

(d) The proceeds of the sale shall not be disbursed, except pursuant to court order following an appropriate motion upon notice to all creditors and parties in interest.

B-6006-1

Extensions of Time to Assume or Reject Executory Contracts

(a) Motions for an extension of the time within which to assume or reject an executory contract shall be combined with notice thereof, be filed prior to the expiration of the date to be extended and served upon all parties to the contract, the United States trustee, any trustee, the debtor and debtor's counsel, any committee and/or the entities included on any list required by Fed. R. Bankr. P. 1007(d).

(b) At a minimum, the motion shall identify the contract for which an extension is being requested and the identity of all parties thereto and shall also state the cause for the requested extension, and the date to which the time is to be extended. It shall contain a statement that any objections to the motion must be filed within fourteen (14) days of the date the motion was served.

(c) In the absence of an objection to the motion within fourteen (14) days after service the court may grant the motion without further notice or hearing.

(d) In the event the motion is granted, movant shall be responsible for serving a copy of the order upon the creditors and parties in interest affected thereby.

B-7007-1

Motion Practice; Length and Form of Briefs

(a) Any motion filed within a contested matter or an adversary proceeding (*e.g.*, motions filed pursuant to Fed. R. Bankr. P. 5011(b), 7012, 7037, and 7056) shall be accompanied by a separate supporting brief. Unless the court orders otherwise, the opposing party shall have thirty (30) days after service of the motion and initial brief within which to serve and file a response. The moving party shall have fifteen (15) days after service of any response within which to serve and file a reply. Time shall be computed as provided in Fed. R. Bankr. P. 9006. Extensions of time shall only be upon order of the court, for good cause shown. The failure to respond or reply within the time required will be deemed a waiver of the opportunity to do so and may subject the motion to a ruling without further submissions.

(b) Except by permission of the court, no brief shall exceed 25 pages in length (exclusive of any pages containing a table of contents, table of authorities, and appendices), and no reply brief shall

exceed 15 pages. Permission to file briefs in excess of these page limitations will be granted only upon motion supported by extraordinary and compelling reasons.

Briefs exceeding 25 pages in length (exclusive of any pages containing the table of contents, table of authorities, and appendices) shall contain (a) a table of contents with page references; (b) a statement of issues; and (c) a table of cases (alphabetically arranged), statutes and other authorities cited, with reference to the pages of the brief where they are cited.

(c) A party citing a decision, statute, or regulation that is not available on Westlaw or Lexis/Nexis shall furnish a copy to the Court and other parties.

B-7007-2

Oral Argument on Motions

(a) Any motion filed within an adversary proceeding or a contested matter may be determined by the court without argument or hearing, following the expiration of the time for any response or reply provided for by these rules.

(b) A request for oral argument shall be filed separately and served along with any brief, response, or reply. The request shall specifically identify the purpose of the request and estimate the time reasonably required for any argument. The granting of any request for oral argument shall be discretionary with the court.

(c) The court may, on its own initiative, schedule any motion for oral argument or a hearing.

B-7015-1

Amended Pleadings

(a) Except by leave of court, any amendment to a pleading in an adversary proceeding, whether submitted as a matter of course or in connection with a motion to amend, must reproduce the entire pleading and may not incorporate any prior pleading by reference or interlineation.

(b) A motion to amend any pleading filed in an adversary proceeding shall attach a copy of the proposed amended pleading to the motion. The original of the amended pleading shall be filed at the same time as the motion to amend.

B-7016-1

Pre-Trial Procedure

(a) The court upon its own initiative or upon the request of a party in interest may schedule any adversary proceeding, contested matter or other dispute for a pre-trial conference.

(b) The requirements of Fed. R. Bankr. P. 7016 shall apply to all adversary proceedings, contested matters and other disputes scheduled for a pre-trial conference.

(c) As a result of the pre-trial conference, the court may direct the parties to file a joint proposed pre-trial order, which, unless notified to the contrary, shall identify or contain:

- (1) a statement concerning the court's subject matter jurisdiction which shall also state whether or not the matter before the court is a core or a non-core proceeding and, if non-core, whether or not the parties consent to the bankruptcy judge hearing and determining the matter and entering any final judgment or orders therein;
- (2) a statement identifying the pleadings, motions, objections or other requests upon which the matter is at issue;
- (3) the status of any pending motion filed within the adversary proceeding, contested matter, or other dispute;
- (4) a separate statement by each party specifically identifying the theory of each claim or defense and a summary of the facts which each party will endeavor to prove in support thereof;
- (5) stipulations as to any and all relevant and undisputed facts;
- (6) a statement identifying the contested facts, if any;
- (7) a statement identifying the contested legal issues, if any;
- (8) a list of the exhibits which each party will offer into evidence at trial, except those to be used solely for impeachment or rebuttal, together with a stipulation concerning which, if any, exhibits may be received into evidence without further proof;
- (9) a list of the names of the witnesses each party anticipates calling at trial, except those to be called solely for impeachment or rebuttal. The witness list shall specify the general qualifications of any witness who is to be called as an expert; and
- (10) the estimated amount of time required for trial.

(d) The parties shall exchange copies of any exhibits listed in the pre-trial order on or before the date the pretrial order is filed with the court. If no pretrial order is required, exhibits shall be exchanged no later than ten (10) days prior to trial.

(e) In any non-core matter in which all parties have not consented to the bankruptcy judge hearing and determining the issue and entering any final judgment or orders thereon, each party shall

file along with any joint proposed pre-trial order proposed findings of fact and conclusions of law, including citations for each conclusion of law, if available.

B-7023-1

Designation of “Class Action” in Caption

(a) In any case sought to be maintained as a class action, the complaint shall bear next to its caption the legend “Complaint -- Class Action.” The complaint shall also contain a reference to the portion or portions of Rule 23, Federal Rules of Civil Procedure, under which it is claimed that the suit is properly maintained as a class action.

(b) Unless it is not practicable within the meaning of Rule 23(c)(1) of the Federal Rules of Civil Procedure to do so, a person seeking certification of a class action shall file a motion seeking class certification within ninety (90) days of the filing of a complaint brought as a class action. In ruling upon such a motion, the court may allow the action to be maintained as a class action, may disallow the action to be so maintained, or may order postponement of the determination pending discovery or other such preliminary procedures as appear to be appropriate and necessary in the circumstances. Whenever possible, where it is held that the determination should be postponed, a date will be fixed by the court for renewal of the motion.

(c) The provisions of this Rule shall apply, with appropriate adaptations, to any counterclaim or crossclaim alleged to be brought for or against a class.

B-7024-1

Procedure for Notification of Any Claim of Unconstitutionality

(a) Whenever (1) the constitutionality of any act of Congress affecting the public interest is drawn into question in any action, suit or proceeding to which the United States, or any agency, officer or employee thereof, is not a party, or (2) the constitutionality of any statute of a State affecting the public interest is drawn into question in any action, suit, or proceeding in which a State or any agency, officer, or employee thereof is not a party, counsel for the party raising or intending to raise such constitutional issue shall immediately notify the clerk, in writing, specifying the act or the provisions which are attacked, with a proper reference to the title and section of the relevant act if available.

(b) Failure to comply with this rule will not be grounds for waiving the constitutional issue or for waiving any other rights the party may have. Any notice provided under this rule, or lack of notice, will not serve as a substitute for, or as a waiver of, any pleading requirement set forth in statute or the Federal Rules of Civil Procedure.

B-7026-1

Form of Interrogatories, Requests for Production and Requests for Admission

(a) The party propounding written interrogatories, requests for production of documents or things, or requests for admission, shall number each such interrogatory or request sequentially. The party answering, responding or objecting to such interrogatories or requests shall quote each such interrogatory or request in full immediately preceding the statement of any answer, response or objection thereto, and shall number each such response to correspond with the number assigned to the request.

(b) No party shall serve on any other party more than thirty (30) requests for admission without leave of court. Requests relating to the authenticity or genuineness of documents are not subject to this limitation. Any party desiring to serve additional requests for admission shall file a written motion setting forth the proposed additional requests for admission and the reason(s) for their use.

B-7026-2

Requests for Filing of Discovery Materials

On its own motion or upon the request of a party in interest and for cause shown, the court may order that discovery materials in any adversary proceeding or contested matter which would not otherwise be filed, be filed, distributed or otherwise made available to parties in interest.

B-7037-1

Informal Conference to Settle Discovery Disputes

The court may deny any discovery motion (except those involving pro se litigants) unless the motion is accompanied by the certification required to be made under Rules 26(c), 37(a)(2)(A), 37(a)(2)(B), and 37(d) of the Federal Rules of Civil Procedure. The certification shall be filed as a separate document and shall, in addition to the information required under the appropriate Federal Rule, also recite the date, time, and place of the conference or attempted conference and the names of all persons participating therein. If counsel for any party advises the court in writing that opposing counsel has refused or delayed meeting and discussing the problems covered in this Rule, the court may take such action as is appropriate to avoid unreasonable delay.

B-7038-1

Jury Trial of Right

The provisions of Rule 38(b), (c), and (d) of the Federal Rules of Civil Procedure apply to adversary proceedings.

B-7041-1
Failure to Prosecute

Any contested matter or adversary proceeding in which no action has been taken for a period of sixty (60) days may be dismissed due to the lack of prosecution, with judgment for costs, if any, following twenty-one (21) days notice given by the court to counsel of record or, in the case of a *pro se* party, to the party unless, for good cause shown, the court orders otherwise.

B-7041-2
Dismissal of Objections to Discharge

(a) A motion for the voluntary dismissal of a complaint containing an objection to a debtor's discharge, pursuant to 11 U.S.C. § 727, or a stipulation between the parties for the dismissal of such a complaint shall be served upon the United States trustee and any trustee.

(b) The motion or stipulation shall contain a recital concerning the consideration, if any, for the dismissal or the terms and conditions of any agreement concerning the dismissal.

(c) Unless the United States trustee, the trustee or another entity seeks to intervene or to be substituted for the plaintiff in the proceeding or objects to the dismissal within twenty-one (21) days following service of the motion, the court may grant the motion, upon such terms and conditions as it deems proper, without further notice or hearing.

B-7054-1
Costs

A party who has been allowed to recover costs pursuant to Fed. R. Bankr. P. 7054 shall have thirty (30) days from the entry of a final judgment to file requests for the taxation of costs. This time may be extended by the court for good cause shown. Failure to file such requests or to obtain leave of court for extensions of time within which to file shall be deemed a waiver of the right to make such requests.

B-7056-1
Motions for Summary Judgment

In addition to complying with the requirements of N.D. Ind. L.B.R. B-7007-1, all motions for summary judgment shall be accompanied by a "Statement of Material Facts" which shall either be filed separately or as part of the movant's initial brief. The "Statement of Material Facts" shall identify those facts as to which the moving party contends there is no genuine issue and shall be

supported by appropriate citations to discovery responses, depositions, affidavits, and other admissible evidence. Any party opposing the motion shall, within thirty (30) days of the date the motion is served upon it, serve and file a “Statement of Genuine Issues” setting forth all material facts as to which it is contended there exists a genuine issue, supported with appropriate citations to discovery responses, affidavits, depositions or other admissible evidence, together with any affidavits or other documentary material controverting the movant's position. The “Statement of Genuine Issues” may either be filed separately or as part of the responsive brief. In determining the motion for summary judgment, the court will assume that the facts as claimed and supported by admissible evidence by the moving party are admitted to exist without controversy, except to the extent that such facts are controverted in the “Statement of Genuine Issues” filed in opposition to the motion, as supported by the depositions, discovery responses, affidavits and other admissible evidence on file.

B-7065-1
Motions for Preliminary Injunctions and
Temporary Restraining Orders

The court will consider a request for a preliminary injunction or a temporary restraining order only when:

- (1) the party seeking the relief files a separate verified motion for such relief;
- (2) the verified motion establishes the willingness of the moving party to provide security as the court might deem proper;
- (3) the moving party files an accompanying brief in support of the requested relief; and
- (4) in the case of a temporary restraining order, the further requirements of Federal Rule of Civil Procedure 65(b) are fully complied with.

B-7067-1
Deposits

(a) **Deposit into Registry Account and Other Interest-bearing Accounts.** All funds deposited into the court pursuant to Rule 67 of the Federal Rules of Civil Procedure and 28 U.S.C. § 2041 shall be deposited into an interest-bearing Registry Account maintained by the Clerk. The Order of Deposit should direct the clerk, without further order of the court, to deduct from the income earned on the investment a fee not exceeding the fee authorized from time to time by the Judicial Conference of the United States, as soon as such fee becomes available for deduction from the investment income.

(b) **Orders Directing Investments of Funds by Clerk of Court.** A party may petition the court for an Order of Investment which directs the clerk to hold the funds in a form of interest-bearing account other than the Registry Account. Whenever a party seeks a court order for money to be invested by the clerk into an interest-bearing account, the party shall personally deliver a proposed order to the clerk, who will inspect the order for proper form, content, and compliance with this rule. The clerk shall immediately forward the proposed order to the judge for whom the order was prepared.

Any order which, pursuant to 28 U.S.C. § 2041, directs the clerk to invest funds in an interest-bearing account or instrument shall include the following:

- (1) The amount to be invested;
- (2) The name of the financial institution in which the money will be invested;
- (3) The type of instrument or account;
- (4) The term of the investment; and
- (5) If the deposit and/or interest received during the time of investment will exceed the FDIC Insurance amount, then the petitioning party shall obtain a collateral pledge by the financial institution for the remainder of the investment. The collateral pledge shall be approved by the judge.

B-7069-1 **Enforcement of Judgments**

(a) The requirements of N.D. Ind. L.R. 69.2, Discovery in Aid of Judgment or Execution, are applicable in this court.

(b) The requirements of N.D. Ind. L.R. 69.3, Final Orders in Wage Garnishment, are applicable in this court. All garnishments remitted to the clerk shall be deposited into the clerk's registry checking account. Checks and drafts are accepted, subject to collection, and full credit will only be given when the check or draft has been accepted by the financial institution on which it was drawn. The clerk is authorized to disburse funds to the garnishor upon being satisfied that payment may be made against collected funds.

B-9002-1
Meaning of Words in Local Rules

In construing any local rules of the district court made applicable to proceedings before the bankruptcy court, all references to the court shall be deemed to be a reference to the bankruptcy court, all references to the district judge or magistrate judge shall be deemed to be a reference to the bankruptcy judge, all references to the clerk shall be deemed to be a reference to the clerk of the bankruptcy court, and all references to the Federal Rules of Civil Procedure shall be deemed to be a reference to the corresponding Federal Rules of Bankruptcy Procedure.

B-9006-1
Initial Enlargement of Time

(a) In any adversary proceeding in which a party wishes to obtain an initial enlargement of time, not exceeding thirty (30) days, within which to file a responsive pleading and in any adversary proceeding or contested matter in which a party wishes to obtain an initial enlargement of time, not exceeding thirty (30) days, within which to file a response to a written request for discovery or request for admission, the party shall contact counsel for the opposing party and solicit opposing counsel's agreement to the extension. In the event opposing counsel does not object to the extension, the party requesting the extension shall document the lack of objection by letter to opposing counsel and by filing notice of the extension, accompanied by a copy of the letter. No further filings or action by the court shall be required for the extension.

(b) In the event the opposing party is not represented by counsel or opposing counsel objects to the request for extension, the party seeking the extension shall file a formal request for extension and, unless the opposing party is *pro se*, shall recite in the request the unsuccessful effort to obtain agreement.

(c) Any motion or notice filed pursuant to this rule shall state the date such response is due and the date to which time is to be enlarged.

B-9010-1
Attorneys

(a) The bar of this court shall consist of those persons admitted to practice by the District Court for the Northern District of Indiana.

(b) The chair of any committee established pursuant to 11 U.S.C. § 705 or § 1102 may appear and speak for the committee at any non-evidentiary hearing in a contested matter. Such a committee must be represented by an attorney at any evidentiary hearing and in all adversary proceedings.

(c) A person not a member of the bar of this court shall not be permitted to practice in this court or before any officer thereof as an attorney, unless (1) such person appears on his or her own behalf as a party, or (2) such person is admitted to practice in any other United States Court or the highest court of any state and is, on application to this court, granted leave to appear in a specific action and tenders the required fee (which is one-half of the fee required for admission to the bar of the United States District Court for the Northern District of Indiana) by a check payable to the “Clerk, United States District Court” or (3) such person appears as attorney for the United States.

(d)-(g) The provisions of N.D. Ind. L.R. 83.5 (d)-(g) are applicable to all matters pending in the Bankruptcy Court.

(h) In all matters and proceedings before this court, only natural persons may appear and represent themselves. All other entities shall be represented by an attorney. For the purposes of filing a proof of claim, participating in a meeting conducted pursuant to 11 U.S.C. § 341 or a reaffirmation agreement, a creditor need not be represented by or appear through an attorney.

(i) Paraprofessionals may not appear at a § 341 meeting on behalf of a debtor but may appear and question a debtor on behalf of a creditor.

B-9010-2

Appearance and Withdrawal

(a) Any attorney representing a party in interest, except an attorney signing a voluntary petition for relief or a complaint in an adversary proceeding, shall first file a formal written appearance clearly identifying the party or parties such attorney is representing, and the name, address, telephone number and bar identification number of the attorney or attorneys filing it. The appearance must be filed as a separate document and may not be incorporated into any other pleading, motion, or other request.

(b) An appearance shall remain effective until withdrawn by order of the court.

(c) Separate appearances must be filed in the main case and any adversary proceeding.

(d) Upon filing an appearance in the main case, the attorney will be added to the matrix of creditors and entitled to be served with the notices, orders, motions, and other papers that are to be served upon all creditors and parties in interest.

(e) Any attorney desiring to withdraw an appearance shall file a verified application and notice requesting leave to do so. The application and notice shall be served upon the client and, if filed in the main case, the United States trustee, any trustee, any committee and/or the entities included on any list required by Fed. R. Bankr. P. 1007(d), or, if filed in an adversary proceeding, all parties that

have appeared in the matter. Unless accompanied or preceded by an appearance of other counsel, the application shall:

- (1) specifically state the grounds or cause for withdrawal;
- (2) be accompanied by satisfactory evidence that counsel has advised the client, in writing, of the reasons for and the intention to seek permission to withdraw at least ten (10) days prior to its filing; and
- (3) unless the client has terminated counsel's services, contain a statement that any response, objection, or comments to the application should be filed within ten (10) days.

Unless requested or ordered by the court, the court may rule upon the application without a hearing upon the expiration of the time for any response.

(f) Separate applications to withdraw must be filed for the main case and each adversary proceeding in which the attorney has appeared. The withdrawal of an appearance in the main case will not constitute an order withdrawing an appearance in any pending adversary proceeding and an order withdrawing an appearance in any adversary proceeding will not constitute an order withdrawing an appearance in the main case or any other pending adversary proceeding.

B-9011-1 Signing of Papers

(a) Every petition, pleading, motion, or other paper presented for filing shall bear the original signature of the attorney or, if appropriate, the party. A rubber stamp or facsimile signature on the original copy shall not be acceptable.

(b) Any petition, pleading, motion or other paper not signed as required by paragraph (a) that is accepted for filing shall be stricken unless the omission is promptly corrected upon notice.

B-9013-1 Motions Initiating Contested Matters and Other Requests for Relief

(a) Every application, motion, or other request for an order from the court, including motions initiating contested matters, shall be filed separately, except that requests for alternative relief may be filed together. All such requests shall be named in the caption, shall state with particularity the order or relief sought and contain a short and plain statement concerning the factual basis or grounds for the motion.

(b) Motions seeking relief from the automatic stay or adequate protection may not be joined with any other request or objection except abandonment.

(c) For the purposes of paragraph (a), “requests for alternative relief” shall mean motions, applications and other requests which are subject to identical notice and hearing procedures (*see, e.g.*, Fed. R. Bankr. P. 2002).

(d) The application, motion, or other request should be accompanied by a proposed form of order.

B-9013-2

Service of Motions and Objections

(a) The party filing a motion, application or an objection is responsible for serving the motion, application or objection upon all entities entitled to receive it.

(b) Service of a motion or application upon the entities entitled to receive it is required in addition to service of any notice concerning the motion or application upon such entities.

(c) Except as provided in these rules or otherwise ordered by the court, all motions, applications, objections and other requests for relief shall be served upon the United States trustee, any trustee and counsel for the trustee, debtor and debtor's counsel, any committee and/or the entities included on any list required by Fed. R. Bankr. P. 1007(d), in addition to any other entity and its counsel upon whom the motion is required to be served by the Bankruptcy Code and the Federal Rules of Bankruptcy Procedure.

(d) With respect to service pursuant to Fed. R. Bankr. P. 7004(b)(4) and (5) – either in an adversary proceeding under Fed. R. Bankr. P. 7001 or a contested matter under Fed. R. Bankr. P. 9014 – the addresses of the departments, agencies and instrumentalities of the United States of America shall be designated as those stated in the list filed by the Office of the United States Attorney pursuant to N.D. Ind. L.B.R. B-1007-5(b).

B-9013-3

Service Upon Committees

(a) Where the court has authorized a committee which has been elected or appointed to employ counsel, service upon the committee shall be made by serving counsel and, if known, the chair of the committee.

(b) Where the court has not authorized a committee which has been elected or appointed to employ counsel, service upon the committee shall be made by serving each member thereof and, if

such a committee is a committee of unsecured creditors, service shall also be made upon the entities included on any list required by Fed. R. Bankr. P. 1007(d).

B-9013-4

Proof of Service

(a) In addition to identifying the pleading, motion or other paper served and showing the date upon which service was made, every proof of service or certificate of service shall state the name of every entity served and the address to which service was directed, together with the manner in which service was made.

(b) Proof of service by facsimile machine may be made by the person causing the paper to be transmitted. Such proof of service shall indicate the telephone number to which the paper was transmitted and the method of confirmation that the transmission was received.

(c) Proof of service of all papers required or permitted to be served may be made by certificate of the person serving the same or by written acknowledgment of service, unless some other method of proof is expressly required by these rules or by the Federal Rules of Bankruptcy Procedure.

(d) The court may take no action with regard to any pleading, objection, motion or other paper required to be served upon any other party, including motions initiating contested matters, unless accompanied by a proper proof or certificate of service. Any such pleading, objection, motion or paper may be stricken, *sua sponte*, following eight (8) days notice.

B-9014-1

Objections and Responses to Motions Initiating Contested Matters

(a) As to any matter in which the court may grant relief without a hearing in the absence of a timely objection, objections to the motion, application, or request shall contain a short, plain statement concerning the factual or legal basis for the objection. The failure to state a sufficient factual or legal basis for the objection may result in the objection being overruled without a hearing.

(b) Except as otherwise ordered by the court, as to any matter in which the court may grant relief only after a hearing, a party desiring to oppose the motion, application, or request shall, except for good cause shown, file and serve any objection no later than seven (7) days prior to the hearing. If such a hearing is scheduled upon less than ten (10) days notice, the objection or response shall be filed and served any time prior to or at the hearing. The objection or response shall be concise and direct, stating in short and plain terms the factual or legal basis for the objection and shall fairly meet the substance of the allegations contained in the motion, application, or request.

(c) The objections or responses required by paragraphs (a) and (b) above shall also be served upon the moving party or parties and the entities specified in N.D. Ind. L.B.R. B-9013-2(c).

B-9014-2

Applicability of Rule 26 (a) and (f) of the Federal Rules of Civil Procedure to Contested Matters

Except as otherwise ordered by the court or agreed to by the parties, the requirements of Rule 26(a) and 26(f) of the Federal Rules of Civil Procedure shall not apply to any contested matter under Rule 9014 of the Federal Rules of Bankruptcy Procedure.

B-9019-1

Stipulations and Settlements

When a case, adversary proceeding, contested matter, dispute, claim or controversy is settled, the parties shall promptly notify the court of the settlement or stipulation and, within the time required by the court, file an agreed judgment or other appropriate stipulation, together with a proposed form of notice and order. The court may extend this time upon a showing of good cause. Failure to file the required judgment or stipulation may result in the dismissal of the pleading, motion, objection, or application upon which the matter was at issue.

B-9019-2

Arbitration/Alternate Dispute Resolution

The court may, upon its own initiative, or upon the motion of a party, set any appropriate adversary proceeding or contested matter for a non-binding method of alternate dispute resolution. The parties may, however, agree to be bound by the results of any such alternate method of dispute resolution.

B-9023-1

Post Judgment Motions

(a) Any motion filed after the entry of a final judgment or order, whether filed pursuant to Fed. R. Bankr. P. 9023 or Fed. R. Bankr. P. 9024, shall be accompanied by a separate supporting brief and any appropriate affidavits or other materials in support thereof. The failure to submit a supporting brief will be deemed a waiver of the opportunity to do so.

(b) Unless otherwise ordered by the court, no response to the motion is required.

(c) The provisions of N.D. Ind. L.B.R. B-7007-2 (oral argument on motions) apply to post judgment motions.

B-9027-1

Remand of Removed Actions

(a) A motion to remand a claim or cause of action removed to the bankruptcy court, other than one based upon the lack of subject matter jurisdiction, shall be filed within the same time as a motion to remand actions which have been removed to the district court (*see e.g.* 28 U.S.C. § 1447(c)) and shall be served upon all other parties to the removed action.

(b) The provisions of N.D. Ind. L.B.R. B-7007-1(motion practice) and N.D. Ind. L.B.R. B-7007-2 (oral argument on motions) shall apply to motions to remand removed actions.

B-9029-2

Limitation on Sanctions for Error as to Form

The court may sanction any attorney or person appearing *pro se* for violation of any local rule governing the form of pleadings and other papers filed with the court by the imposition of a fine not to exceed \$1,000.00, or by ordering stricken, after notice and opportunity to be heard or to cure the defect, a paper which does not comply with these Rules. Local rules governing the form of pleadings and other papers filed with the court include, but are not limited to, those local rules regulating the paper size, the number of copies filed with the court, and the requirement of a special designation in the caption.

B-9070-1

Custody of Files and Exhibits

(a) **Custody During Pendency of Action.** After being marked for identification, models, diagrams, exhibits and material offered or admitted in evidence in any cause pending or tried in this court shall be placed in the custody of the clerk, unless otherwise ordered by the court, and shall not be withdrawn until after the time for appeal has run or the case is disposed of otherwise. Such items shall not be withdrawn until the final mandate of the reviewing court is filed in the office of the clerk and until the case is disposed of as to all issues, unless otherwise ordered.

(b) **Removal After Disposition of Action.** Subject to the provisions of subsections (a) and (d) hereof, unless otherwise ordered, all models, diagrams, exhibits or material placed in the custody of the clerk shall be removed from the clerk's office by the party offering them in evidence within ninety (90) days after the case is decided. In all cases in which an appeal is taken these items shall be removed within thirty (30) days after the mandate of the reviewing court is filed in the clerk's

office and the case is disposed of as to all issues, unless otherwise ordered. At the time of removal a detailed receipt shall be given to the clerk and filed in the cause. No motion or order is required as a prerequisite to the removal of an exhibit pursuant to this rule.

(c) **Neglect to Remove.** Unless otherwise ordered by the court, if the parties or their attorneys shall neglect to remove models, diagrams, exhibits or material within thirty (30) days after notice from the clerk, the same shall be sold by the United States Marshal at public or private sale or otherwise disposed of as the court may direct. If sold, the proceeds, less the expense of sale, shall be paid into the registry of the court.

(d) **Contraband Exhibits.** Contraband exhibits, such as controlled substances, money, and weapons, shall be released to the investigative agency at the conclusion of the trial and not placed in the custody of the clerk. A receipt shall be issued when such contraband exhibits are released.

(e) **Withdrawal of Original Records and Papers.** Except as provided above with respect to the disposition of models and exhibits, no person shall withdraw any original pleading, paper, record, model or exhibit from the custody of the clerk or other officer of the court having custody thereof except upon order of a judge of this court.

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